

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

RECEIVED & FILED  
1999 SEP 30 AM 7:30

CLERK'S OFFICE  
U.S. DISTRICT COURT  
SAN JUAN, P.R.

RANGEL VAZQUEZ APONTE  
et al.,

Plaintiffs,

v.

CIVIL NO. 97-1381 (RLA)

OWENS BROCKWAY, INC., et al.,

Defendants.

MINUTES AND ORDER OF INITIAL SCHEDULING CONFERENCE  
HELD ON SEPTEMBER 23, 1999

The parties appeared before the Court on September 23, 1999,  
from 3:30 p.m. to 4:00 p.m. for an Initial Scheduling Conference.

ISABEL M. GUILLEN, Esq. appeared on behalf of plaintiffs. Co-  
defendant OWENS-BROCKWAY GLASS CONTAINER, INC. (OWENS BROCKWAY) was  
represented by RICARDO CASELLAS, Esq., and co-defendant BEVERAGE  
CANNERS INTERNATIONAL CORPORATION (BEVERAGE CANNERS) appeared through  
VIRGILIO MENDEZ CUESTA, Esq.

The Court inquired of counsel as to the status of discovery,  
which was renewed after the complaint was amended to bring in  
defendants OWENS BROCKWAY and BEVERAGE CANNERS.

94

July Clerk

CIVIL NO. 97-1381 (RLA)

Page 2

Counsel for defendants indicated that they had begun review of the earlier discovery materials and expected to be finished examining same within 30 days. Defendants also indicated that inspection of the glass fragment allegedly found after the accident as well as plaintiffs' expert report was essential to their determination as to how to proceed with discovery in this action.

Accordingly, IT IS HEREBY ORDERED as follows:

**No later than October 8, 1999,** plaintiffs shall provide the glass shard/fragment to counsel for OWENS BROCKWAY, with a representation by plaintiffs' counsel that it is the same fragment of glass previously inspected by DR. RONALD CAPORALI.

**No later than October 22, 1999,** plaintiffs shall provide to opposing counsel MR. THOMAS SERVICE's report. Plaintiffs are admonished that if this expert report fails to comply with the requirements of Rule 26 F.R.Civ.P., it shall once again be stricken for noncompliance.

**Disclosure re: Plaintiffs' Orthopedic Surgeon**

The Court disclosed to counsel for the parties that DR. ORLANDO FERNANDEZ had operated on the undersigned's knee several years ago and asked if they had any objections to the Court's participation in

CIVIL NO. 97-1381 (RLA)

Page 3

1  
2 this action given the undersigned's doctor-patient relationship with  
3  
4 DR. FERNANDEZ, plaintiffs' medical expert. Counsel indicated they  
5 had no objections.

6 **DISCOVERY**

7 The JOINT INITIAL SCHEDULING CONFERENCE MEMORANDUM filed by the  
8 parties on September 17, 1999 (docket No. 92) is hereby APPROVED,  
9  
10 subject to the modifications set forth below for the conclusion of  
11 discovery in these proceedings.

12 **AMENDMENT TO THE PLEADINGS**

13 There shall be no further amendments to the pleadings.

14 **WRITTEN DISCOVERY**

15 All WRITTEN DISCOVERY, i.e., interrogatories, requests for  
16 production of documents, requests for admissions, etc. shall be  
17 propounded no later than October 29, 1999.

18 **DEPOSITIONS OF FACT WITNESSES**

19 All DEPOSITIONS OF FACT WITNESSES, including the parties, shall  
20 be concluded no later than November 30, 1999.  
21  
22  
23  
24  
25  
26

CIVIL NO. 97-1381 (RLA)

Page 4

**EXPERT WITNESSES**

**A. Plaintiffs' Expert Witness(es)**

The REPORT of all expert witnesses plaintiffs intend to utilize at trial shall be provided to defendants **no later than October 29, 1999.**

The DEPOSITION of plaintiffs' expert witness(es) shall be taken **no later than November 30, 1999.**

**B. Defendant's Expert Witness(es)**

The REPORT(s) of all expert witness(es) defendants intend to use at trial shall be provided to plaintiffs **no later than November 15, 1999.**

The DEPOSITION(s) of defendants' expert witness(es) shall be taken **no later than December 15, 1999.**

The parties are admonished that all written expert reports shall include:

"[A] **complete statement** of all opinions to be expressed and the basis and **reasons therefor**; the data or other information considered by the witness in forming the opinions; any **exhibits** to

CIVIL NO. 97-1381 (RLA)

Page 5

1  
2 be used as a summary of or support for the  
3  
4 opinions; the **qualifications** of the witness,  
5 including a list of all **publications** authored by  
6 the witness within the preceding ten years; the  
7 **compensation** to be paid for the study and  
8 testimony; and a **listing of any other cases** in  
9 which the witness has testified as an expert at  
10 trial or by deposition within the preceding four  
11 years." Rule 26(a)(2)(B) Fed. R. Civ. P.  
12  
13 (emphasis ours).  
14

#### 15 DISPOSITIVE MOTIONS

16 The deadline for submitting dispositive motions, if any, to  
17 opposing counsel in accordance with the procedure set forth in the  
18 STANDING ORDER - PROCEDURE FOR FILING DISPOSITIVE MOTIONS IN CIVIL  
19 TRIALS ASSIGNED TO JUDGE RAYMOND L. ACOSTA, issued on May 19, 1998,  
20 is **January 28, 2000**.  
21

#### 22 FAILURE TO COMPLY

23 Counsel are admonished that the failure to comply with the terms  
24 of this Order may result in the imposition of sanctions upon the  
25 party and/or counsel personally, including but not limited to the  
26

CIVIL NO. 97-1381 (RLA)

Page 6

1 \_\_\_\_\_  
2 payment of reasonable expenses and/or the striking of claims,  
3 defenses or witnesses.  
4

5 **PRETRIAL AND TRIAL SETTINGS**

6 A JURY TRIAL in these proceedings shall commence on **February 22,**  
7 **2000, at 9:30 a.m.**  
8

9 A PRETRIAL/SETTLEMENT CONFERENCE is hereby scheduled for  
10 **February 15, 2000, at 3:30 p.m.** Counsel for the parties shall appear  
11 prepared to discuss settlement negotiations in earnest with the  
12 necessary authority from their respective clients.  
13

14 **PRETRIAL ORDER**

15 A PROPOSED JOINT PRETRIAL ORDER shall be filed on or before  
16 **February 8, 2000.**<sup>1</sup> Once approved by the Court, the Proposed Joint  
17 Pretrial Order may be modified only upon a showing of good cause.  
18

19 The PROPOSED JOINT PRETRIAL ORDER shall set forth the following:

20 **I. Nature of the Case**

21 A statement of the nature of the case agreed upon by  
22 all parties. In the event that the parties cannot agree upon a  
23 single description, separate versions shall be submitted.  
24

25 \_\_\_\_\_  
26 <sup>1</sup> A courtesy copy shall be delivered directly to the chambers  
of the undersigned.

CIVIL NO. 97-1381 (RLA)

Page 7

**II. Theories of the Parties**

Each party shall present concisely its pertinent legal theories including applicable citations to statutes and caselaw. Counsel are directed to fully disclose all trial issues since the Proposed Joint Pretrial Order will supersede the pleadings in establishing the issues to be heard and considered at trial.

**III. Admitted Facts**

The parties shall provide a comprehensive listing of all admitted or stipulated facts.

**IV. Contested Facts**

The parties shall provide a listing of contested facts.

**V. List of Exhibits**

This section shall contain a listing of all exhibits which have been pre-marked/numbered. Each exhibit shall be identified by a descriptive title as well as its identification number. The parties shall indicate which exhibits, if any, are not objected to by opposing counsel. An additional copy of all documents intended to be used at trial shall also be furnished

CIVIL NO. 97-1381 (RLA)

Page 8

1 \_\_\_\_\_

2 to the undersigned in accordance with the STANDING ORDER FOR

3 CIVIL TRIALS issued by the undersigned on **February 10, 1994.**

4

5 **VI. Depositions**

6 The party wishing to use deposition testimony at

7 trial shall list the depositions. Additionally, designations

8 and objections shall be submitted in accordance with the

9 undersigned's STANDING ORDER FOR CIVIL TRIALS issued on **February**

10 **10, 1994.**

11

12 **VII. Witnesses**

13 Each party shall identify witnesses to be presented

14 at trial and include a brief, one paragraph, offer of proof.

15

16 **VIII. Expert Witnesses**

17 When applicable, each party shall list its expert

18 witness and include his/her curriculum vitae and an offer of

19 proof. If an expert report has been produced, THE REPORT SHALL

20 BE SUBMITTED IN CONJUNCTION WITH THE OFFER OF PROOF.

21

22 **IX. Itemized Statement of Special Damages**

23 In the event that the issue of special damages may

24 arise, an itemized statement of special damages shall be incorporated

25 into the Proposed Joint Pretrial Order. The party or parties not in

26



CIVIL NO. 97-1381 (RLA)

Page 9

1  
2 agreement with the proposed statement shall include its/their  
3  
4 opposition in this section.

5 **X. Estimated Length of Trial**

6 Parties shall indicate the estimated length of trial.

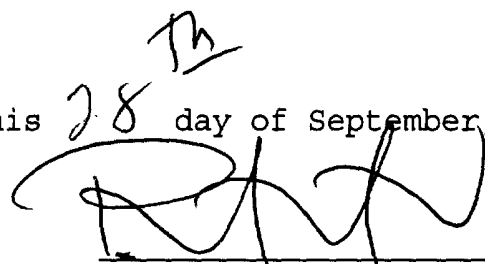
7 Counsel are hereby admonished that the failure to comply with  
8  
9 any of the terms of this Order may result in the imposition of  
10  
11 sanctions upon them personally and/or dismissal of the action, as the  
12 Court deems appropriate.

12 **STANDING ORDER**

13 The parties shall also file a TRIAL BRIEF<sup>2</sup> no later than **February**  
14  
15 **18, 2000**, in accordance with the undersigned's STANDING ORDER FOR  
16  
17 CIVIL TRIALS issued on **February 10, 1994**. The parties shall make the  
18  
19 necessary arrangements with the courtroom deputy clerk to have the  
20  
21 evidence marked prior to trial.

22 IT IS SO ORDERED.

23 San Juan, Puerto Rico, this 28<sup>th</sup> day of September, 1999.

24  
25  
26  
  
\_\_\_\_\_  
RAYMOND L. ACOSTA  
United States District Judge

27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
<sup>2</sup> Courtesy copy shall be delivered directly to the chambers  
of the undersigned.

CIVIL NO. 97-1381 (RLA)

Page 10

---

**SUMMARY OF DEADLINES**

10/08/99	Deadline for plaintiffs to provide glass shard to opposing counsel
10/22/99	Deadline for plaintiffs to provide MR. SERVICE's expert report
10/29/99	Deadline for plaintiffs to provide report(s) of other expert(s)
10/29/99	Deadline for parties to propound written discovery
11/15/99	Deadline for defendants to provide expert report(s)
11/30/99	Deadline for deposition of plaintiffs' expert(s)
11/30/99	Deadline for fact witnesses depositions
12/15/99	Deadline for deposition of defendants' expert(s)
01/28/00	Deadline for serving dispositive motions, if any, in accordance with Standing Order
02/08/00	Deadline for filing of Joint Pretrial Order
02/15/00	PRETRIAL/SETTLEMENT CONFERENCE at 3:30 p.m.
02/18/00	Deadline for filing of Trial Briefs
02/22/00	JURY TRIAL at 9:30 a.m.